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INDONESIAN CONSTITUTIONAL COURT'S DECISION NO. 97/PUU-XIV/2016: A CHANCE TO ENCOURAGE RECONCILIATION BETWEEN "AGAMA" DAN "KEPERCAYAAN"

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Abstract

This paper discusses the Constitutional Court's decision No. 97/PUU-XIV/2016 as a chance to encourage reconciliation of "agama" and "kepercayaan." This paper collects responses from religious organizations through statements on the internet such as online media, the organization's official website, or even official social media. The data is then classified based on religious affiliation and their attitude towards the Constitutional Court's decision No. 97/PUU-XIV/2016. On 7 November 2017, the Constitutional Court granted a judicial review of Law No. 23/2006 amended by Law No. 24 of 2013 concerning Civic Administration (UU Adminduk). This law is very significant for the group of "kepercayaan." However, the group of "agama" has not yet fully accepted the group of "kepercayaan." So, there needs to be reconciliation between groups of "agama" and "kepercayaan" after the Constitutional Court's decision No. 97/PUU-XIV/2016. By looking at the importance of the decision, it is also truly an opportunity to stop discrimination and social stigma against followers of "kepercayaan." This paper concluded that the Constitutional Court's decision No. 97/PUU-XIV/2016 was an opportunity to encourage reconciliation between "agama" and "kepercayaan."

Keywords: *Agama, Constitutional Court's decision, Kepercayaan, reconciliation*

A. Introduction

In the interreligious dialogue in Indonesia, it emphasizes recognized religions. Here, I call them "agama" groups. Unfortunately, the facts of religious phenomena are more diverse than just these religious groups. The impact is that several groups are excluded from the interreligious dialogue. One of the most significant groups is "kepercayaan" groups although they are indigenous religions whose existence is much earlier in Indonesia than recognized religions which incidentally are "imports."

The exclusion of the "kepercayaan" groups from dialogue in Indonesia is because they have not received legal recognition since the proclamation of the Indonesian state.

Furthermore, it is a consequence of polarization between “agama” and “kepercayaan” groups since pre-independence. It implies that “agama” groups object to “kepercayaan” groups. Thus, “agama” as an entity recognized by the state, perceives groups of “kepercayaan” outside the part of interreligious dialogue as they are marginalized legally. In the sense that there is no juridical basis to protect their existence.

Although there is no law in Indonesia, or even the Constitution, which defines “agama”, in practice, the term “agama” refers to world religions in Indonesia based on the explanation of Law No. 1/PNPS/1965 concerning Blasphemy.¹ Based on the evidence in the history of religions in Indonesia, Law No. 1/PNPS/1965 mentions that Indonesian only embraces Islam, Christianity, Catholicism, Hinduism, Buddhism, and Confucianism. It then becomes the justification of “agama” groups that are legalized by the state to “exclude” groups of “kepercayaan” in interreligious dialogue. For instance, in the Indonesian Inter-religious Communication Forum (Forum Komunikasi Umat Beragama or FKUB), groups of followers of “kepercayaan” and other minority religions such as Baha’i, Shinto, and so on, they did not get a position because they did not get recognition from the state.

Nevertheless, the debate between “agama” and “kepercayaan” gets a new leaf when, on November 7, 2017, the Indonesian Constitutional Court (Mahkamah Konstitusi or MK) granted a request for judicial review on the rules for emptying the religious column for followers of the “kepercayaan” on the Family Card (Kartu Keluarga or KK) and electronic ID Card (Kartu Tanda Penduduk elektronik or KTP-el) regulated in Article 61 verse (1) and (2) and Article 64 verse (1) and (5) of Law Number 23 of 2006 concerning Civic Administration as amended by Law Number 24 of 2013 concerning Law concerning Amendment to Law Number 23 of 2006 concerning Civic Administration (UU Adminduk).² By looking at the Constitutional Court’s decision No. 97/PUU-XIV/2016, it provides a new step for the group of “kepercayaan.” On the one hand, this is a significant decision for followers of the group of “kepercayaan” because

¹ Zainal Abidin Bagir, “Kepercayaan” dan “Agama” dalam Negara Pasca-Reformasi,” *Prisma* 39, no. 1 (2020): 43, LP3S.

² Prianter Jaya Hairi, “Tindak Lanjut Putusan MK Terkait Penganut Kepercayaan,” *Info Singkat* IX, no. 23. (2017): 1.

they can fill in “kepercayaan” in the religion column of their Family Card and electronic ID Card. On the other hand, it is also important to see how the responses of official religious leaders to the Constitutional Court’s decision. Here, I assume that the decision of the Constitutional Court No. 97/PUU-XIV/2016 which was decided in 2017 (the Constitutional Court’s Decision in 2017) has a chance to reconcile the relationship between “agama” and “kepercayaan” in the religion-making dialogue in Indonesia.

Although several papers discuss the issuance of the Constitutional Court’s decision No. 97/PUU-XIV/2016, no one has discussed the response of religious organizations to create a dialogue between “agama” and “kepercayaan” groups. For example, Sukirno and Adhim’s research focuses on the implementation of the Constitutional Court’s decision No. 97/PUU-XIV/2016 for the indigenous community, specifically for the indigenous community of Adat Karuhun Urang in Cigugur Kuningan.³ While Azizah sees the Constitutional Court’s decision No. 97/PUU-XIV/2016 based on an Islamic perspective. She considers that it is in line with the contents of the Medina Charter which upheld religious freedom. She sees momentum for the implementation of *al-Daruriyyat al-Khams Li Hifẓ al-Din* (five important needs that must be maintained by the Muslims).⁴ Another research is a master’s thesis written by Wahyudi which states that “agama” and “kepercayaan” are different values of beliefs. He views that the Constitutional Court’s decision No. 97/PUU-XIV/2016 reduced the value of “agama” as a divine revelation that must have prophets and scriptures as guidelines for his religious life.⁵

Based on this background, this paper aims to find out how religious organizations respond after the issuance of the Constitutional Court’s decision No. 97/PUU-XIV/2016 whether they accept, reject, or give a moderate attitude. Then, this paper will

³ Sukirno and Nur Adhim, “Implementasi Putusan Mahkamah konstitusi No. 97/PUU-XIV/2016 pada Masyarakat Adat Karuhun Urang di Cigugur,” *Jurnal Penelitian Hukum De Jure* 20, no. 1 (2020): 11, <http://dx.doi.org/10.30641/dejure.2020.V20.11-24>.

⁴ Imroatul Azizah, “Menakar Jaminan Implementasi Al-Daruriyyat Alkhams Bagi Penghayat Kepercayaan Dalam Keputusan Mahkamah Konstitusi,” *Annual Conference for Muslim Scholars (AnCoMS)*: 806.

⁵ Moh. Wahyudi, “Analisis Masuknya Aliran Kepercayaan di Kolom Agama dalam Kartu Keluarga dan Kartu Tanda Penduduk (Studi Putusan Mahkamah Konstitusi Nomor 97/PUU-XIV/2016 tentang Yudicial Review Undang-Undang Administrasi Kependudukan)” (Master Thesis, Universitas Islam Indonesia, Yogyakarta, 2018), xiv.

also look at how the chance to encourage reconciliation between “agama” and “kepercayaan” groups through the Constitutional Court’s decision No. 97/PUU-XIV/2016 in interreligious dialogue.

This paper is a qualitative study in which primary data is collected through literature studies such as books, journals, and other related sources. Besides, this paper collects responses from religious organizations through statements on the internet such as online media, the official website of the organization, or even official social media. The data is then classified based on religious affiliation and analyzed descriptively. These data then become the results of the research in this paper.

This paper will show the diversity of the attitudes of religious organizations in responding to the Constitutional Court’s decision No. 97/PUU-XIV/2016. The paper argues that “agama” groups have not yet fully accepted the decision so there must be a dialogue between “agama” and “kepercayaan” groups. Furthermore, this is also a chance to reconcile the polarization of “agama” and “kepercayaan” groups which have historically occurred even since Indonesia’s pre-independence.

B. A Brief History of Polarization of “Agama” and “Kepercayaan”

Religion is a prescriptive and normative term not a descriptive or analytical term. Its emergence is understood as a controversial Eurocentric phenomenon, specifically, Christian theology and western modernity that predominantly influence the term “religion”, which is then used universally.⁶ The definition of religion also influences the political construction of religion-making in Indonesia. In Indonesia, “religion” is then translated as “agama.” Because when we speak “agama” in Indonesia, we cannot ignore the problem of the definition of “religion” with certain standards that have been brought by the West, it is inevitable. Consequently, “[...] both religion and agama are defined and standardized. Definitions of religion/agama standardize what may (and may not) be categorized as religion and agama. Those resembling the prototyped religion/agama, but

⁶ Michel Picard, “Introduction: ‘Agama,’ ‘Adat,’ and Pancasila.” In *The Politics of Religion in Indonesia: Syncretism, Orthodoxy, and Religious Contention in Java and Bali*, edited by Michel Picard & Rémy Madinier (London: Routledge, 2011), 1.

not fully fulfilling the required standards are excluded, and may not enjoy the status of being recognized as religion.”⁷

The term “agama” is the result of borrowing from Sanskrit. Nevertheless, in Indonesia, it was changing and shifting meaning. In Sanskrit, the original term “agama” refers to “a traditional precept, doctrine, body of precepts, collection of such doctrines” or simply “agama” is “anything handed down as fixed by tradition.” Furthermore, the ancient Javanese call it for “a body of customary law or a Dharma-book, and to religious or moral tradition.” The shifting meaning occurs when Islam and Christianity take over and adopt the meaning of “agama” even though the meaning of “agama” tends closely to the idea of “dharma” in India. Here, “the legal and religious components of agama became dissociated in Indonesia [...] By taking on the meaning of ‘religion’, religion was not only dissociated from ‘law’ but also from ‘tradition’, which is rendered by the traditional Arabic loan word *adat*.”⁸

Here, the definition of “agama” (religion) in Indonesia is problematic. In a sense, it is not only a translation fallacy but also it is a political construction which from the beginning has marginalized and excluded many groups through standards imported from Islam and Christianity. As a result, the definition of “agama” (religion) in Indonesia has separated what is called “agama” (religion) and “non-agama” (non-religion) including “kepercayaan.” Related to the term “kepercayaan,” Maarif mentions that followers of “kepercayaan” and indigenous peoples are part of followers of “agama leluhur” (indigenous religion). Not all followers of “kepercayaan” and indigenous peoples are followers of indigenous religion due to various considerations. For example, it is an assumption that “adat” (customary)/“kepercayaan” practice is culture, it is not religion. In Indonesia, indigenous religions are often referred to interchangeably with the terms “agama leluhur,” “agama asli,” “agama lokal,” “agama nusantara,” and even often identified with local wisdom. This term has only been popular since the Reformation

⁷ Samsul Maarif, “Indigenous Religion Paradigm: Re-interpreting Religious Practices of Indigenous People,” *Studies in Philosophy* 44 (2019): 4, <http://doi.org/10.15068/00155157>.

⁸ Picard, *Introduction*, 484-485.

era.⁹ Meanwhile, “kepercayaan” is also defined as the indigenous religions of Indonesia. It is an indigenous system of spirituality that does not mix with other religions.¹⁰ “Kepercayaan” can be grouped into two namely first, the *propomelayu* group. This group can be called “pure” groups. In a sense, the “kepercayaan” groups that continue to exist today without being influenced by religions come from outside. Second, it is the *deutromelayu* group that has been “mixed.” This group emerged and developed among world religions. Although formally the religions that came from outside replaced “kepercayaan” groups, the spiritual elements of the “kepercayaan” groups still existed (incognito).¹¹

The history of polarization of “agama” and “kepercayaan” in Indonesia cannot be separated from the politics of religion that has occurred since the Dutch colonial era. According to Maarif, politics of religion is a political effort by groups of citizens who make religion a tool of legitimating power and control over other citizens’ groups. The political effort was carried out through mobilization and mass pressure with claims in the name of the interests and identity of the majority religion, the strength of political parties, state infiltration through policies, and legislation.¹² At the end of the 19th century, the Dutch colonial government issued a policy of differentiating Islam (agama) vs. *adat* (kepercayaan). Colonies are divided and distinguished. As a result of this policy, *adat* which was institutionalized became exclusively different from religious institutions, and religious/Islamic groups in turn considered not only Dutch colonizers but also *adat* groups as enemies because they were considered to be allied with the invaders.¹³

Towards the independence of the Indonesian state, debates between religion and “kepercayaan” continued. Fundamental questions such as whether religion and “kepercayaan” are equal, or whether “kepercayaan” is the part of religion or separate; and the political situation that occurred at that time made this debate colored by many

⁹ Samsul Maarif, *Pasang Surut Rekognisi Agama Lelubur dalam Politik Agama di Indonesia* (Yogyakarta: Center for Religious and Cross-cultural Studies (CRCS), 2017), 3-4.

¹⁰ Rachmat Subagya, *Agama Asli Indonesia* (Jakarta: Sinar Harapan dan Yayasan Citraloka, 1981), 1.

¹¹ Rachmat Subagya, *Agama Asli Indonesia*, 28-31.

¹² Maarif, *Pasang Surut*, 1.

¹³ Maarif, *Pasang Surut*, 12-13.

things. It became important because at that time Indonesian leaders were developing a constitution. The debates can be illustrated in the atmosphere during the drafting of the constitution by the Indonesian Independence Preparatory Agency for Investigation (Badan Penyelidik Usaha-Usaha Persiapan Kemerdekaan Indonesia or BPUPKI). On July 13, 1945, when the draft Working Committee's constitution was completed, religion became part of one of its articles, namely Article 29 which consists of 2 verses: "(1) Negara berdasarkan pada Ketuhanan, dengan kewajiban menjalankan syariat Islam bagi pemeluk-pemeluknya; (2) Negara menjamin tiap-tiap penduduk untuk memeluk dan menjalankan sesuai agama dan kepercayaannya itu" (1) The State is based on God, with the obligation to carry out Islamic law for its followers (as stated in the Jakarta Charter); (2) The State guarantees each resident to embrace and carry out according to that religion and belief). The word "kepercayaan" or belief itself in this verse is the proposal of Mr. KRMT Wongsonegoro, who is a member of the Small Committee on the Design of the Constitution and later became Chairman of the Indonesian Kebatinan Coordinating Board (Badan Koordinasi Kebatinan Indonesia or BKKI), at the BPUPKI meeting on July 13, 1945. Wongsonegoro sees that he certainly has an interest in guarding the aspirations of the threatened *abangan* group as a target of the possibility of coercion of Islamic law. The *abangan* group proposes verse 2 because they realize that the existence and aspirations of their group will be threatened by the *santri* group agenda. They consider that verse 1 is very potential to be forced. Therefore, verse 2 is a way to anticipate if the first verse carried by the *santri* group will be forced on the *abangan* group.¹⁴

In the New Order era, the polemic of the *abangan* group was not excluded by the state. The government made a policy to conduct "building up" religion against *abangan* groups. The state claims the correct interpretation of Article 29 of the Constitution is that every citizen must embrace one of the five state-recognized religions namely Islam, Protestantism, Catholicism, Hinduism, and Buddhism. Confucianism is not included because when the new order the government issued Presidential Instruction No. 14 of

¹⁴ Maarif, *Pasang Surut*, 19-20.

1967 which prohibits all things Chinese-affiliated. Then, in 1973, the government made a policy that all students receive two hours of religious subjects whose contents are standardized by the Department of Religion. Students from families who do not follow a recognized religion are forced to choose one of the recognized religions.¹⁵

In the post-independence era, the root of the conflict between the “agama” group and the “kepercayaan” group was, first, the state did not recognize “kepercayaan” as a religion in the Minister of Religious Affairs Regulation No. 9 of 1952 (Peraturan Menteri Agama or Permenag No. 9/1952) which defines religion as a monotheistic belief system, has a holy book that is believed to be a revelation, and also has a prophet. Next, the second regulation was the issuance of Presidential Decree No. 1/PNPS/1965, which was later stipulated to become Law No. 1/PNPS/1965, which is often regarded as a source of problems with indigenous religious resistance. This law itself was issued when the political tension between the Nahdatul Ulama Party (Partai Nahdlatul Ulama) and the Indonesian Communist Party (Partai Komunis Indonesia or PKI) was heating up and increasing.¹⁶ In the era of Sukarno and Suharto, policies towards religion were delegated to the bureaucracy rather than the judiciary. Indonesian bureaucrats are involved in ensuring and defining religion. As a result, the government forced religions such as Hinduism and Buddhism that were considered polytheistic to be included in the monotheistic category.¹⁷ “The formalization of “agama” and regularities of the formalized “agama” has consistently been appropriated to legitimate the adoption of often violent measures targeting religious minorities in Indonesia.”¹⁸

According to Sukirno, in Dwipayana, the issuance of Presidential Decree No. 1/1965 colonized “kepercayaan” group. In many cases, the government tried to impose

¹⁵ Robert W. Hefner, “Where have all the abangan gone? Religionization and the decline of non-standard Islam in contemporary Indonesia.” In *The Politics of Religion in Indonesia: Syncretism, Orthodoxy, and Religious Contention in Java and Bali*, edited by Michel Picard & Rémy Madinier, (London: Routledge, 2011), 84-85.

¹⁶ Sukirno, “Diskriminasi Pemenuhan Hak Sipil Bagi Penganut Agama Lokal.” *Administrative Law & Governance Journal* 1, no. 3 (2018): 236.

¹⁷ Yüksel Sezgin and Mirjam Künkler, “Regulation of Religion and the Religious: The Politics of Judicialization and Bureaucratization in India and Indonesia.” *Comparative Studies of Society and History*, 56, no. 2 (2014): 471. <https://doi.org/10.1017/S0010417514000103>.

¹⁸ Sita Hidayah, “The Politics of Religion: The Invention of “Agama” Indonesia,” *Kawistara*, 2, no. 2 (2012): 121.

its will on the “kepercayaan” group by classifying it to a certain “agama.” For instance, making Tolottang’s indigenous religion (kepercayaan) in South Sulawesi a Hindu religion based on the Decree of the Minister of Religious Affairs No. 6 in 1966 (SK Menteri Agama No. 6 tahun 1966). Also, the Kaharingan indigenous religion which was integrated into Hinduism based on the Decree of the Regional Office of the Ministry of Religious Affairs of Central Kalimantan No. MA/203/1980 (SK Kakanwil Departemen Agama Kalimantan Tengah No. MA/203/1980). Discrimination of followers of the “kepercayaan” groups then continued when The People’s Consultative Assembly (Majelis Permusyawaratan Rakyat or MPR) Decree No. IV/MPR/1978 (Tap MPR No. IV/MPR/1978) was published on the Broad Guidelines of State Policy (Garis-Garis Besar Haluan Negara or GBHN), which emphasized that “Kepercayaan kepada Tuhan Yang Maha Esa” (literally, Belief in God Almighty) or “kepercayaan” was not a religion, so it needed to be fostered so as not to lead to the formation of new religions. It has implications for civic administration matters. Circular of the Minister of Home Affairs No. 477/4054 (SE Mendagri tahun 1978) dated 18 November 1978 stated that the religion recognized by the government was Islam, Catholicism, Protestantism, Hinduism, and Buddhism—Confucianism not mentioned because the government issued Presidential Instruction No. 14 of 1967 which prohibits all things Chinese-affiliated. Thus, the religious column of the followers of “Kepercayaan kepada Tuhan Yang Maha Esa” and others are only written “hyphen” (-). Circular of the Minister of Home Affairs in 1978 continued until the issuance of Law No. 23/2006 which was amended by Law No. 24 of 2013 concerning Civic Administration (UU Adminduk).¹⁹

In 2016, Nggay Meheng Tana, Pagar Demanra Sirait, Arnol Purba, and Carlim then submitted a request for a judicial review of this Law with Case Number 97/PUU-XIV/2016. The Panel of Judges led by the Chairman of the Constitutional Court, Arief Hidayat, finally granted all the judicial review requests a year later.

¹⁹ Sukirno, “Diskriminasi,” 237.

C. Responses of Religious Organizations to the Constitutional Court's Decision No. 97/PUU-XIV/2016

In the verdict, the panel of judges granted the petition for a review of Law No. 23/2006 which was amended by Law No. 24 of 2013 concerning Civic Administration with Case Number 97/PUU-XIV / 2016 as a whole. They stated that the word “agama” article 61 section (1) and Article 64 section (1) of the Civic Administration Law contradicted the 1945 Constitution of the Republic of Indonesia and had no binding legal force as long as it did not include “kepercayaan.” Then, they also stated that Article 61 section (2) and Article 64 section (5) of the Civic Administration Law (UU Adminduk) contradicted the 1945 Constitution of the Republic of Indonesia and did not have binding legal force.

This decision then received a lot of responses from elements of society. Of course, one important element of the response is the religious organization in which they have a large grassroots mass base and a long history of contesting with “kepercayaan” groups since the colonial era. Interestingly, the attitude of the religious organization is not singular. Based on their leaders’ statements, the attitudes of religious organizations can be classified into three attitudes, namely, first, it is the positive attitude, which supports this decision using either legal or theological arguments. Then, the second is neutral. This attitude tends to only accept legal decisions without significant resistance or support. The last is the negative attitude. This attitude tends to expressly show their disappointment with the decisions of the Constitutional Court judges. These statements are the responses of the leaders of religious organizations based on the background of religious organizations while officially only the Council of Indonesian Ulama (Majelis Ulama Indonesia or MUI) gives an official statement to the public.

Related to the Constitutional Court’s Decision No. 97/PUU-XIV/2016, MUI national working meeting decides eight points. First, MUI deeply regrets the Constitutional Court’s decision, the Constitutional Court’s decision is considered inaccurate and hurts the feelings of religious people, especially Indonesian Muslims because the decision means aligning the position of “agama” and “kepercayaan.” Second,

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MUI considers that the Constitutional Court's decision has legal consequences and has an impact on the order of social life, as well as damaging the state and political agreements that have been going well. Third, MUI believes that the Constitutional Court should make decisions that have a strategic, sensitive impact and concern the lives of many people, build communication and absorb the broadest aspirations from the society and stakeholders, so that they can make decisions objectively, wisely, and aspiratively. Fourth, MUI respects the religious and beliefs diversity of every citizen because it is an implementation of Human Rights protected by the state following applicable laws. Fifth, MUI agreed that the implementation of civil rights services of citizens in law and government should not be any difference and discrimination, as long as this is following statutory provisions. Sixth, concerning civil rights as citizens, the fostering of the "kepercayaan" followers so that they remain under the Ministry of Education and Culture, as has been going well so far. Seventh, because the Constitutional Court's decision is following the constitution, is final and binding, the MUI proposes to the government that the "kepercayaan" followers be given *KTP-el* which includes a column of "kepercayaan," without any "agama" column. Eight, the making of *KTP-el* for the followers of the "kepercayaan" should be immediately realized to fulfill the rights of citizens who are included in the category of "kepercayaan."²⁰

Table 1. Responses of Leaders of Religious Organizations to the Constitutional Court's Decision No. 97/PUU-XIV/2016.

Figure	Organization	Religion	Attitude
Gomar Gultom	<i>Persekutuan Gereja-gereja di Indonesia (PGI)</i> (Communion of Churches in Indonesia (CCI))	Protestantism	Positive
Din Syamsuddin	<i>Majelis Ulama Indonesia (MUI)</i> (The Council of Indonesian Ulama)	Islam	Negative
Ma'ruf Amin	<i>Majelis Ulama Indonesia (MUI)</i> (The Council of Indonesian	Islam	Negative

²⁰ Fitri Wulandari, "8 Pernyataan Sikap MUI Tanggapi Putusan MK Terkait 'Pencantuman Kolom Aliran Kepercayaan di e-KTP'," *Tribunnews*, Januari 17, 2018, <https://www.tribunnews.com/nasional/2018/01/17/8-pernyataan-sikap-mui-tanggapi-putusan-mk-terkait-pencantuman-kolom-aliran-kepercayaandi-e-ktp>.

	Ulama)		
Masduki Baidlowi	<i>Nabdlatul Ulama (NU)</i>	Islam	Neutral
Robikin Emhas	<i>Nabdlatul Ulama (NU)</i>	Islam	Neutral
Abdul Mu'ti	<i>Muhammadiyah</i>	Islam	Positive
Yunahar Ilyas	<i>Muhammadiyah</i>	Islam	Negative
Haedar Nashir	<i>Muhammadiyah</i>	Islam	Negative
Suresh Kumar	<i>Perhimpunan Pemuda Hindu (Peradah) (The Hindus Youth Association)</i>	Hinduism	Negative
Haryadi	<i>Pewakilan Umat Buddha (Walubi) (Indonesia the Indonesian Buddhist Council)</i>	Buddhism	Neutral

Positive attitude came from PGI and Muhammadiyah. Gomar Gultom, Secretary-General of PGI, said that “it is a step forward because the state thus recognizes the rights of all people to be included in their “agama”/”kepercayaan” in the *KTP-el* column, no longer just one of the six religions that have been recognized so far.” Furthermore, he, as the representative of PGI, expressed his gratitude to all groups for fighting for it. PGI is one of the organizations that has supported the advocacy of “kepercayaan” groups from the beginning. He stated that since the beginning PGI participated in various ways to fight for the rights of indigenous peoples and indigenous religions, even when it was still in the legislative process of discussing the Civic Administration Bill, but it was always outvoted. Also, when submitting Judicial Review Law number 1/PNPS/1965, it was also rejected at the Constitutional Court. He then explicitly said that “all of you [followers of “kepercayaan”] are the legitimate and original owners of this Republic, even long before the arrival of the six religions that have been recognized to the archipelago.”²¹

Then, Abdul Mu'ti, Secretary-General of Muhammadiyah, considered that the Constitutional Court's decision was very strategic for followers to “kepercayaan.” He said that advocates of “kepercayaan” lost many civil rights, particularly those related to religious rights. Furthermore, he said that there were a number of things that needed to be done regarding the life of “kepercayaan.” First, the data collection regarding followers

²¹ Markus, “Sekum PGI: Keputusan MK Terkait UU Adminduk Sebuah Langkah Maju,” *PGI*, November 10, 2017, <https://pgi.or.id/sekum-pgi-keputusan-mk-terkait-uu-adminduk-sebuah-langkah-maju/>.

of “kepercayaan”—there is no need to limit between recognized or unrecognized “kepercayaan.” Second, it is necessary to change policies related to public services such as civic administration, marriage, and religious education²²

Meanwhile, figures such as Din Syamsuddin and Ma’ruf Amin from MUI gave negative attitudes. In addition, Muhammadiyah shows more heterogeneous responses. Yunahar Ilyas gave a negative attitude in responding to the Constitutional Court’s decision No. 97/PUU-XIV/2016, it was different from Mu’ti’s attitude which gave a positive response.

The Chairman of the MUI consideration Council, Din Syamsuddin, said that he strongly complained of the Constitutional Court’s decision on “kepercayaan”. He disagreed if “kepercayaan” was equated with “agama” (religion). He then referred to the interpretation of MPR Decree No. 4/78 “that “kepercayaan” is not “religion” and cannot be equated with “religion.” As the Chairman of the MUI consideration Council, he also saw signs and symptoms of distortion, deviation from the interpretation of the constitution. Syamsuddin said, “[...] although the Constitutional Court has the authority to have an interpretation even the decision is final and binding, the Constitutional Court cannot arbitrarily provide interpretations that are contrary to existing national agreements.”²³

The MUI Chairman, Ma’ruf Amin, also criticized the Constitutional Court’s decision on “kepercayaan.” He said that the Constitutional Court’s decision on “kepercayaan” did not take into account society agreements. He said “the Constitutional Court made a decision that merely adhered to the principles of legislation, without paying attention to the agreement in the life of the nation and state. It was the problem.” The agreement in question is that one element of the identity of every citizen in Indonesia is “agama,” not “kepercayaan.” According to Amin, it will cause turmoil if the

²² Idealisa Masyrafina, “Muhammadiyah Dukung Putusan MK Terkait Kolom Agama di KTP-El,” *Republika*, November 7, 2017, <https://republika.co.id/berita/oz1sqt354/muhammadiyah-dukung-putusan-mk-terkait-kolom-agama-di-ktpe>.

²³ Wildansyah Samsudhuha, “Wantim MUI Sesalkan Putusan MK yang Anggap Kepercayaan Setara Agama,” *Detik*, November 22, 2017. <https://news.detik.com/berita/d-3738186/wantim-mui-sesalkan-putusan-mk-yang-anggap-kepercayaan-setara-agama>.

“kepercayaan” of a citizen, it will be included in the *KTP-el* or *KK* because there is a prior political agreement.²⁴

In contrast to Mu’ti who gave a positive attitude, Yunahar Ilyas, Chairman of the *Tarjih, Tajdid, and Tabligh* Muhammadiyah Central Executive, said that he questioned the reason the Constitutional Court granted the petitioner’s claim regarding the permissibility of “kepercayaan” followers to fill the religion column on the *KTP-el*. He worried that it would have a big impact on the future following the Constitutional Court’s decision. According to Ilyas, Muhammadiyah considered that the followers of the “kepercayaan” should not need to be included in the religion column on the *KTP-el*. He said “kepercayaan” is not “religion,” how can it be written in the religion column on the *KTP-el*? What should have been written was one of the recognized religions in Indonesia.”²⁵

The negative attitude also came from the statement of the General Chairman of the Muhammadiyah Central Executive, Haedar Nashir, who considered the Constitutional Court’s authority to exceed God’s authority. He believes that the Court today is the most powerful institution in Indonesia. He was worried that there would be a big impact in the future following the Constitutional Court’s decision. According to Nashir, the Court cannot be free from interests. In addition to the matter of interpretation, he stated that the relationship between the judges and their background strongly determines the decision. The Constitutional Court’s decision about the permissibility of writing followers of “kepercayaan” in the column of *KTP*. Nashir considers that the Constitutional Court should be more careful and comprehensive to judges and it had also to use the sociology of religion.²⁶

²⁴ Fabian Januarius Kuwado, “Ketum MUI Kritik Putusan MK soal Penghayat Kepercayaan,” *Kompas*, November 15, 2017. <https://nasional.kompas.com/read/2017/11/15/16000091/ketum-mui-kritik-putusan-mk-soal-penghayat-kepercayaan>

²⁵ Abdul Aziz, “Muhammadiyah Khawatir Penghayat Kepercayaan Masuk Kolom Agama *KTP*,” *Tirto*, November 8, 2017, <https://tirto.id/muhammadiyah-khawatir-penghayat-kepercayaan-masuk-kolom-agama-ktp-czQt>.

²⁶ Pimpinan Pusat Muhammadiyah, “Soal Putusan MK tentang Aliran Kepercayaan, Ketum: Otoritas MK Melebihi Otoritas Tuhan,” *UMM*, November 12, 2017, <http://www.umm.ac.id/id/muhammadiyah/12564.html>.

Responding to the Constitutional Court's decision No. 97/PUU-XIV/2016, the NU religious organization gave neutral attitudes. It is implied from the statements of figures such as Masduki Baidlowi and Robikin Emhas. Masduki Baidlowi, Deputy Secretary-General of the Nahdlatul Ulama Executive Board (Pengurus Besar Nahdlatul Ulama or PBNU) said that, according to Islamic teachings, "kepercayaan" is not included as "agama" but Baidlowi did not question if "kepercayaan" was written in the religion column of *KTP-el* and *KK*. He himself was worried that the decision would lead to new conflicts. He did not deny that there could be clashes at lower levels. However, he hoped that would not happen. According to Baidlowi, another impact that needs attention is the reduced number of people (recognized religions). During this time, many followers of "kepercayaan" decided to embrace state-recognized religion, including Islam, in order to obtain state facilities. Nevertheless, after this decision, NU had to rethink how to invite followers of "kepercayaan" to become fully Muslims. It is a new challenge for NU to invite followers of "kepercayaan" to Islam.²⁷

Robikin Emhas, Chairman of the PBNU said that he should respect the Constitutional Court's decision for followers of "kepercayaan." According to Emhas, the Indonesian constitution has guaranteed equal rights and position before the law and the government. Therefore, as Indonesian citizens, followers of "kepercayaan" should not be discriminated against by the state. He hopes the Indonesian citizens can respect the Constitutional Court's decision. Moreover, the Constitutional Court's decision is final and binding so every citizen in the Republic of Indonesia should respect it [Constitutional Court's decision].²⁸

Meanwhile, the General Chairperson of the National Board of Leaders of the Hindus Youth Association (Perhimpunan Pemuda Hindu or Peradah) and the Indonesian Buddhist Council's Public Relations Staff (Perwakilan Umat Buddha

²⁷ Andrian Pratama Taher, "PBNU Sebut Putusan MK Tidak Koordinasi dengan Kementerian Agama," *Tirto*, November 9, 2017, <https://tirto.id/pbnu-sebut-putusan-mk-tidak-koordinasi-dengan-kementerian-agama-czRN>.

²⁸ Mabruroh, "NU Hormati Putusan MK untuk Penghayat Kepercayaan," *Republika*, November 9, 2017, <https://www.republika.co.id/berita/nasional/politik/17/11/09/oz5071-nu-hormati-putusan-mk-untuk-penghayat-kepercayaan>.

Indonesia or Walubi) responded to the demographic impact of the followers of Hinduism and Buddhism post-the Constitutional Court's Decision No. 97/PUU-XIV/2016. Suresh Kumar, Chairperson of the National Board of Leaders of the Hindu Youth Association, said that Hinduism is the religion most affected by the Constitutional Court's Decision No. 97/PUU-XIV/2016 because the majority of "kepercayaan" groups have so far joined Hinduism. He said that it happened because the "kepercayaan" groups thought that they had a lot in common with Hinduism. So, he assumed that the publication of the Constitutional Court's Decision No. 97/PUU-XIV/2016 will make followers of Hinduism less. Yet, Haryadi, Walubi's Public Relations Staff said that he did not bother with the publication of the Constitutional Court's Decision No. 97/PUU-XIV/2016. He said that the decision had little effect on Buddhists because philosophically he said that "Buddhism is Buddhism. It is just that the teachings are different."²⁹

Table 2. Responses of Religious Organizations to the Constitutional Court's Decision No. 97/PUU-XIV/2016.

Organization	Religion	Attitude
PGI	Protestantism	Positive
MUI	Islam	Negative
NU	Islam	Neutral
Muhammadiyah	Islam	Positive and negative
Peradah	Hinduism	Negative
Walubi	Buddhism	Neutral

Based on the three religious organizations' responses to the Constitutional Court's decision No. 97/PUU-XIV/2016, only PGI clearly gave a positive attitude. MUI and Peradah gave a negative response. And, NU and Walubi chose to give a neutral attitude. Muhammadiyah provides a multivocal attitude. On one hand, Abdul Mu'ti gave a positive attitude. On the other hand, Yunahar Ilyas and Haedar Nashir gave a negative attitude. Nevertheless, if we ask all members of organizations such as PGI, MUI, NU,

²⁹ Mufti Sholih, "Dampak Putusan MK untuk Agama-Agama di Indonesia," *Tirto*, November 8, 2017, <https://tirto.id/dampak-putusan-mk-untuk-agama-agama-di-indonesia-czQe>.

Peradah, and Walubi either structural active members or cultural sympathizers, of course, the response will also be as varied as the Muhammadiyah religious organizations.

Besides, there is a correlation between the statement of the leaders of religious organizations and the official statement of religious organizations. For example, in the MUI case, the eight points of the official MUI attitude and the attitude of MUI figures show the same attitude. They give a negative attitude. These religious leaders are people who are not only organizational leaders but also religious leaders who have great influence and many followers at the grassroots level so that their voices can influence their organizational attitudes both formally and informally.

The positive, negative, and neutral attitudes of religious organizations show that “agama” groups are not yet fully the same in viewing the issue of “kepercayaan.” It is a result of the process of the politics of religion that has taken place since Indonesia was not yet independent. So, the issuance of the Constitutional Court’s decision No. 97/PUU-XIV/2016 is a great chance to encourage reconciliation of “agama” and “kepercayaan” groups.

D. The Chance to Encourage Reconciliation between “Agama” and “Kepercayaan”

According to Brounéus, “reconciliation is a societal process that involves mutual acknowledgment of past suffering and the changing of destructive attitudes and behavior into constructive relationships toward sustainable peace.”³⁰ Bloomfield views then that “reconciliation is a complex term, and there is little agreement on its definition. He said that “[...] reconciliation is both a goal—something to achieve, and a process—a means to achieve that goal.”³¹

In the case of conflict between groups of “agama” and “kepercayaan” here, the term “reconciliation” emphasizes justice for the rights of both—not just to one. It is because the history of conflict between groups of “agama” and “kepercayaan” is the

³⁰ Karen Brounéus, *Dialogue on Globalization: Reconciliation and Development* (Berlin: the Friedrich-Ebert-Stiftung, 2007), 6.

³¹ David Bloomfield, Terri Barnes, and Luc Huyse (Eds.), *Reconciliation after Violent Conflict: A Handbook*. (Stockholm: International Institute for Democracy and Electoral Assistance, 2003), 12.

history of injustice. Brounéus viewed that “justice is indispensable for reconciliation.”³² It can be said that many laws tend to accommodate more the interests of groups of “agama,” particularly Islam, Protestantism, and Catholicism. Consequently, the conflict tends to discriminate against groups “kepercayaan.” Law No. 1/PNPS/1965 (UU PNPS), the People’s Consultative Assembly Decree No. IV/MPR/1978 (Tap MPR), and Law No. 23/2006 which was amended by Law No. 24 of 2013 concerning Civic Administration (UU Adminduk) is evidence of how the group “agama” which is the majority group “defeats” the group of “kepercayaan” at the state level. In Minutes of Session No. 97/PUU-XIV/2016 on May 3, 2017. Samsul Maarif, one of the Petitioners’ Experts, said that laws such as the Civic Administration Law discriminate and perpetuate social stigma in society.

“The most important thing is the Civic Administration Law like this, today the state still perpetuates social stigma. “Kepercayaan” in 1965, [was accused of being] communist. In 1978, “kepercayaan” [was considered as] culture, not a religion, they [are accused] of threatening the state. What is done today with the Civic Administration Law, it continues to perpetuate social stigma. Even this social stigma becomes a social norm, even a legal norm used to consider whether these citizens are served or not.”

He then mentions several cases, for example when followers of “kepercayaan” want to get service from the state, they first get questions such as “who is your prophet? What is your holy book?” According to Maarif, it is a social stigma that is built from the beginning which has been embedded in the heads of civil servants in providing services. It is what is meant by social stigma as social norms, even legal norms. These things are utilized by groups of “agama” that have a mission to spread religion. Here, Maarif views that followers of “kepercayaan” are always victims of discrimination and social stigma.³³

Many followers of “kepercayaan” convert to recognized religions because they do not want to always be victims of discrimination and social stigma, especially during the New Order era in which followers of “kepercayaan” were accused of being part of communism. At that time, in 1965, followers of “kepercayaan” were accused of having no religion. Thus, they convert to recognized religions to defend themselves.

³² Brounéus, *Dialogue on Globalization*, 8.

³³ Risalah Sidang Perkara No. 97/PUU-XIV/2016, 6.

Consequently, there was a significant decrease in followers of “kepercayaan” and an increase in followers of Islam, Catholicism, and Protestantism during this period. Moreover, Islam and Christianity both Catholicism and Protestantism are also religions that aim to proselytize (in Bahasa, *dakwah* or *misi*). Proselytization includes all attempts to try to persuade someone to a particular religion and religious community to conversion.³⁴

In Surakarta, where there were 13 “kepercayaan” groups registered with a total of 15,068 followers. Followers affiliated with “kepercayaan” continued to decline as in 1974-1975. Official statistics reported that “other” group—groups that do not have affiliations with Islam, Catholicism, Protestantism, Hinduism, Buddhism, and Confucianism have decreased from 39,396 to 19,879 while Muslims, Catholics, and Protestants have increased respectively from 334,889 to 340,496, from 38,688 to 40,548, and from 42,552 to 45,668. According to Ricklefs, this might occur because “[...] as well as government suspicion and suppression and Islamic antipathy, there may have been internal psychological causes for the decline of *kebatinan* early in the New Order. The occult doctrines of *kebatinan* movements commonly include the idea that advanced practitioners acquire superhuman abilities, but not always for positive purposes.”³⁵ In the contemporary era, another possibility is since the Islamic movement such as Salafism in Surakarta seems to be more attractive to people from “kepercayaan” backgrounds since it is simple, rigid, clear rules, and transnational character give it an additional appeal of cosmopolitanism. So, Islam becomes more dominantly than the “kepercayaan” group.³⁶

By looking at the many discriminations and social stigma against followers of “kepercayaan,” the Constitutional Court’s decision No. 97/PUU-XIV/2016 is a chance to encourage reconciliation of groups of “agama” and “kepercayaan.” Reconciliation itself can be examined from three levels of society, namely top-level, middle-range, and

³⁴ Melissa Crouch, *Law and Religion in Indonesia: Conflict and the Courts in West Java* (New York, NY: Rutledge, 2014), 6.

³⁵ M. C. Ricklefs, *Islamisation and Its Opponents in Java: A Political, Social, Cultural and Religious History, C. 1930 to the Present* (Singapore: NUS Press, 2012), 133-134.

³⁶ Martin van Bruinessen (Ed.), *Contemporary Developments in Indonesian Islam: Explaining the “Conservative Turn”* (Singapore: ISEAS, 2013), 15.

grassroots. Top-level emphasis is on accountability and the legal system. Then, the second is the middle-range. It is an example of the actors being NGOs. Lastly, it is grassroots. It can be done by holding meetings between grassroots leaders to build collaboration.³⁷ Thus, reconciliation between groups “agama” and “kepercayaan” has to involve all levels of society so that there is no more discrimination and social stigma against “kepercayaan” groups. For instance, religious organizations that respond negatively to the Constitutional Court’s decision No. 97/PUU-XIV/2016 must be invited for dialogue in order to accept “kepercayaan” groups in those religious organizations.

Furthermore, when we talk about reconciliation there are instruments that must be carried out to achieve it. First is healing. “Healing is a process or activity that improves the psychological health of individuals.”³⁸ It is important because discrimination and social stigma, then social norms and even legal norms, have been around for a long time. Just imagine, since Indonesia gained independence in 1945, followers of “kepercayaan” have just gained legal recognition in 2017. It would certainly require healing. Second, it is justice. “Reconciliation and justice are almost twin notions. The search for peaceful coexistence, trust, empathy, and democratic power-sharing demands that “justice be done.”³⁹ Of course, in a democratic system like Indonesia where there is a lot of diversity, reconciliation for justice is a necessity. Next, it is truth-telling. In the reconciliation process, truth-telling is one of the most significant steps.⁴⁰ To build good relations in the future between groups of “agama” and “kepercayaan,” truth-telling must be done so that further generations can avoid bad history and learn from past processes. Lastly, it is reparation. “Reparation is a key element of any true transitional justice and reconciliation process [...] The term “reparation” is the most comprehensive notion that covers a wide range of measures that are taken to redress past wrongs which may or may not qualify as human rights violations and/or as criminal offenses.”⁴¹ Mistakes of action in the history

³⁷ Brounéus, *Dialogue on Globalization*, 6.

³⁸ Bloomfield, Barnes, and Huyse (Eds.), *Reconciliation after Violent Conflict*, 77.

³⁹ Bloomfield, Barnes, and Huyse (Eds.), *Reconciliation after Violent Conflict*, 97.

⁴⁰ Bloomfield, Barnes, and Huyse (Eds.), *Reconciliation after Violent Conflict*, 122.

⁴¹ Bloomfield, Barnes, and Huyse (Eds.), *Reconciliation after Violent Conflict*, 145.

of the debate on “agama” and “kepercayaan” should no longer be repeated in the future. Followers of “kepercayaan” must get their rights equal to followers of “agama.” The Constitutional Court’s decision No. 97/PUU-XIV/2016 is an example of a form of reparation group of “kepercayaan” that must be supported by all elements of society.

So, it is important to have a dialogue between groups of “agama” and “kepercayaan” in order to religious organizations that provide negative and neutral attitudes when they respond to the Constitutional Court’s decision No. 97/PUU-XIV/2016 turn into positive attitudes. The Constitutional Court’s decision No. 97/PUU-XIV/2016 is a great opportunity to eliminate, or at least reduce, the discrimination and social stigma that happens to followers of “kepercayaan.” Here, reconciliation between groups of “agama” and “kepercayaan” plays an important role. Although the Constitutional Court’s decision No. 97/PUU-XIV/2016 has not been positively accepted by religious organizations, it is really a great opportunity to bring the “kepercayaan” group back into the daily religious conversation. In a sense, they are not perceived as unbelievers, communists, backward people, and other stigma attached to them. After the Constitutional Court’s decision No. 97/PUU-XIV/2016, now is a chance of all elements of society to encourage reconciliation between groups of “agama” and “kepercayaan.”

E. Conclusion

The history of polarization of “agama” and “kepercayaan” is a history of injustice from the colonial era to the reform era. After the Indonesian state was formed, the contestation of “agama” and “kepercayaan” was further sharpened. On the one hand, groups of “agama” get better portions of rights because they get legal recognition. On the other hand, the groups of “kepercayaan” are increasingly excluded. For example, Law No. 1/PNPS/1965 (PNPS Law), the People’s Consultative Assembly Decree No. IV/MPR/1978 (MPR Decree), and Law No. 23/2006 which was amended by Law No. 24 of 2013 concerning Civic Administration (UU Adminduk) are evidence that the group of “kepercayaan” is a victim of politics of religion. The Laws discriminate against

groups of “kepercayaan.” Furthermore, it then becomes a social stigma, which becomes a social norm and even a legal norm.

In 2017, the Constitutional Court then granted all the judicial review requests for Case Number 97/PUU-XIV/2016 to Law No. 23/2006 which was amended by Law No. 24 of 2013 concerning Civic Administration. The decision implies that followers of “kepercayaan” today can fill in the religion column on their identity cards. Responding to this, several religious organizations gave their attitude. PGI provides a positive attitude. Then, MUI gave a negative attitude and NU showed a neutral attitude. Muhammadiyah gave a multivocal attitude in which Abdul Mu’ti gave a positive attitude, while figures such as Yunahar Ilyas and Haedar Nashir gave a negative attitude.

Based on the responses of the religious organizations, the group of “agama” still does not fully accept the group of “kepercayaan.” So, there needs to be reconciliation between groups of “agama” and “kepercayaan” after the Constitutional Court’s decision No. 97/PUU-XIV/2016. By looking at the significance of the decision, it is also really a chance to stop discrimination and social stigma against followers of “kepercayaan.” In short, the Constitutional Court’s decision No. 97/PUU-XIV/2016 is an opportunity to encourage reconciliation between “agama” and “kepercayaan.”

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